

Idaho State Board of Medicine
Regular Meeting
December 3, 2010

Chairman David McClusky, II, MD, Twin Falls, called the meeting to order at 9:58 a.m., Friday, December 3, 2010, at the Doubletree Hotel Parkcenter Room, 475 Parkcenter Boulevard, Boise, Idaho, 83706. Attendees: Vice Chairman Leo Harf, MD, Nampa; Barry Bennett, MD, Idaho Falls; William A. Cone, M.D., Lewiston; Laura McGeorge, MD, Boise; Ralph Sutherlin, DO, Meridian; William Ganz, MD, Coeur d'Alene; Trudy Jackson, public member, Emmett and Joyce McRoberts, public member, Meridian. Colonel Jerry Russell, Director, Idaho State Police was absent and excused. Board staff attendees: Joan Weddington, PhD, executive director; Mary Leonard, associate director; Cynthia Michalik, quality assurance specialist; Beverly Kendrick, quality assurance specialist; Janet Whelan, quality assurance specialist; Darlene Parrott, compliance monitor; Cathleen Morgan, Board counsel; and Jean Uranga, Board attorney.

The Committee on Professional Discipline and Board of Medicine agreed to hold a conference call on January 5, 2011 to consider and make a determination regarding Case Number O-0477.

In appreciation for her for 27 years of service to the Board of Medicine, the Board recognized Ms. Teresa (Terri) Solt's retirement as of December 31, 2010.

Administration

The Board reviewed minutes of the September 10, 2010 meeting. Motion to approve after correction to 2011 meeting dates as follows: Page 5, paragraph 2 - change September 9, 2010 to September 9, 2011 and December 2, 2010 to December 2, 2011. (Jackson/unanimous)

Joan Weddington, executive director, presented the Board with information from the October 14-15, 2010 Administrators in Medicine (AIM) meeting in Spokane, Washington, which was attended by Ms. Weddington and Ms. Leonard. Information regarding AIM's external review program was discussed.

Ms. Weddington directed the Board's attention to materials from the October 22, 2010 meeting of the Idaho Medical Association (IMA), the letter of appointment regarding Phillipe Masser, MD (Boise) to the Advanced Practice Professional Nurse Advisory Committee of the Idaho Board of Nursing, to serve for a two-year term to expire June 30, 2013. Upon review of the status of the Physician Recovery Network (PRN) audit, the Board acted to request that the IMA temporarily delay the audit pending review of additional information, to be collected by Ms. Weddington. The Board reviewed Ms. Weddington's travel reimbursement request from the October 2010 AIM meeting as

well as Ms. Weddington's credit card statements since the last Board meeting with no questions or further discussion. The Board reviewed the financial report for first quarter of the fiscal year. In response to Dr. Ganz's request for clarification of increased legal expenses, Ms. Weddington clarified that legal expenses were increased due to hearing costs; Dr. Harf requested clarification of costs included in the "Government Overhead" expenses. No further discussion or comment regarding financial report.

After review of the proposed Interim Board Meeting Guidelines, the Board requested revisions. Ms. Morgan to present revised guidelines for approval at the March 4, 2011 meeting.

Dr. McClusky reviewed the process by which physician Board members are appointed.

Dr. McClusky and Ms. Weddington discussed plans to provide an informational presentation regarding the Board staff's role in processing prelitigation screening hearing requests at the February 2011 IMA meeting.

Ms. Weddington directed the Board's attention to the Ski Patrol issue that was presented at the September. No further discussion or comments.

Ms. Morgan presented information regarding what level of provider may perform electromyography and nerve conduction velocity studies. After review of the materials presented and further discussion, the Board requested that Ms. Morgan gather additional information for consideration at the March 4, 2011 meeting.

Ms. Weddington and Ms. Uranga discussed the need for clarification and education regarding the PRN within the medical community. The Board requested that Ms. Weddington speak with the IMA chief executive officer regarding the possibility of having a physician member of the PRN Committee write an article for the next newsletter.

The Board reviewed statistics report provided by the Physician Recovery Network program without further discussion or comment.

The Board acted to approve all licensure and registration actions taken subsequent to the last Board meeting on September 10, 2010 as noted on the attached Licensure Report pages 1-6. (Bennett/Unanimous).

Legal

Litigation review – nothing to report.

Legislative review – nothing to report.

Ms. Uranga clarified issues raised recently regarding corporate practice of medicine. No action taken.

Ms. Morgan discussed how the new provider conscience rule, IC 18-611 coordinates with patient abandonment prohibition in IC 54-1814. After review and consideration, the Board declined to proffer an opinion at this time.

Ms. Morgan requested the Board's reconsideration of its September 10, 2010 action to exempt physicians who live outside the state from serving as physician panelists for prelitigation screening hearings. After further discussion, the Board acted to require physicians licensed in Idaho to serve on prelitigation screening hearing panels if the physician lives within 100 miles of Idaho. (Cone/unanimous)

Ms. Morgan requested the Board consider and render an opinion regarding ownership of patient medical records. Following review of applicable statutes, rules and literature presented by Ms. Morgan, the Board affirmed Ms. Morgan's position that patient medical records are owned by the provider or entity that created the record.

Ms. Morgan presented Title 54-1804 (b) (Unlicensed Practice), for discussion regarding "demonstration". The Board clarified that assisting in a surgical procedure or other hands-on provision of care constitutes the practice of medicine and requires an active Idaho license.

Ms. Morgan discussed the Board's obligation to hear public members that request to be heard during open session. Ms. Morgan and Ms. Uranga clarified that the Board has no obligation to allow public members to be heard; however, the Board must allow public members to attend meetings as observers during open session.

The Board acted to leave Executive Session at 12:25 p.m. (Harf – Affirmed unanimously via roll call: Bennett, Jackson, Cone, Ganz, McClusky, McGeorge, McRoberts, and Sutherlin).

License and Registration

Motion to go into Executive Session at 1:04 p.m. via roll call in accordance with Idaho Code § 67-2345(b), (d) and (f) to discuss confidential current and potential litigation issues and discuss personal matters relating to the character, professional competence or physical or mental health of an applicant. (Bennett – Affirmed unanimously via roll call: McGeorge, Jackson, Harf, Cone, Ganz, McClusky, Sutherlin, McRoberts).

In Executive Session, the Board (with exceptions as noted below) reviewed and considered the recommendations of the Committee on Professional Discipline and the allied health boards and conducted interviews of applicants for licensure. Note the following exceptions: Dr. Ganz excused himself from the room during interview and vote in the matter of Case Number BOMA-3169. The Board excused Ms. Whelan and Ms. Uranga from the room during discussion and vote in the matter of Case Number 2008-BOM-6279.

Motion to leave Executive Session at 3:30 p.m. via roll call in accordance with Idaho Code § 67-2345(b), (d) and (f) to vote on matters considered during Executive Session. (Motion Harf – Affirmed unanimously via roll call, Bennett, Sutherlin, Cone, Ganz, McClusky, McGeorge and McRoberts).

In Open Session, the Board voted on the matters considered during Executive Session as indicated:

Case Number M-9370 - The Board acted to grant license (Bennett/Unanimous).

Case Number M-8988 - The Board acted to grant license conditioned upon applicant's agreement to sign stipulation and order (Bennett/Unanimous).

Case Number BOMA-3169 - The Board acted to grant license (Bennett/Unanimous with the exception of Dr. Ganz, who excused himself from the room during interview and vote).

Case Number M-4260 - The Board acted to grant license (Bennett/Unanimous).

Case Number BOMA-3149 - The Board acted to grant license (Bennett/Unanimous).

Case Number M-5791 - The Board acted to grant license (Sutherlin/Unanimous).

Case Number 2008-BOM-6279 – The Board acted to grant license conditioned upon applicant's agreement to sign stipulation and order (McGeorge/Unanimous).

Case Number M-3109 - The Board acted to offer applicant the opportunity to withdraw application for license. If applicant fails to withdraw application, the application for license will be denied until applicant meets conditions as outlined in letter to be forwarded to applicant (McGeorge/Unanimous).

Case Number M-3096 - The Board acted to grant license (Cone/Unanimous).

Case Number M-2891 - The Board acted to grant license (Ganz/Unanimous).

Case Number 2008-BOM-6279 – The Board acted to accept recommendations of the Disabled Physician Committee and reinstate license contingent upon applicant signing S&O in which applicant agrees to continue treatment with psychiatrist, comply with psychiatrist's treatment plan and forward regular reports from treating psychiatrist to the Board for review.

The Board acted to accept recommendations of the Committee on Professional Discipline: (Bennett/Unanimous).

The Board acted to accept recommendations of the Physician Assistant Advisory Committee (McGeorge/Unanimous).

The Board acted to accept recommendations of the Allied Health Boards (Jackson/Unanimous).

Dr. McClusky announced that he will be unable to attend the March 4, 2011 meeting due to a scheduling conflict. The Board thanked Dr. McClusky for his service to the Board of Medicine as well as his contributions as Chair.

Chairman David McClusky, M.D., adjourned the Board of Medicine meeting at 5:16 p.m. on Friday, December 3, 2010.